

MAY 23 2007

WN-16J

Mr. Gerald Danforth
Tribal Chair
Oneida Business Committee
Post Office Box 365
Oneida, WI 54155

Re: Phase II Storm Water Program

Dear Mr. Danforth:

I am writing in regard to Phase II Storm Water Program requirements under the Clean Water Act which apply to the Oneida Tribe of Wisconsin (Oneida Tribe) as an operator of a municipal separate storm sewer system (MS4). I understand that Oneida tribal environmental staff has had ongoing discussions about the permit requirements with the National Pollutant Discharge Elimination System (NPDES) Programs Branch staff since April 2005. This letter provides information to help the Oneida Tribe fulfill its requirement to apply for and obtain a storm water permit.

In 1990, the United States Environmental Protection Agency (U. S. EPA) promulgated rules establishing Phase I of the NPDES storm water program. The Phase I program for MS4s requires operators of medium and large MS4s, those that serve populations of 100,000 or greater, to implement a storm water management program.

In 1999, U. S. EPA promulgated the Phase II Rule, which builds upon the existing Phase I program by extending coverage of the NPDES storm water program to certain small MS4s. Under the Phase II Rule, operators of regulated small MS4s are required to develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, and to evaluate the effectiveness of the program.

As an operator of a small MS4, the Oneida Tribe is subject to the requirements under Title 40 of the Code of Federal Regulations (40 CFR), Sections § 122.33 through § 122.35. The substantive NPDES Permit requirements for small MS4s are described at 40 CFR § 122.34.

To seek authorization to discharge under an individual permit, the Oneida Tribe must: submit an application to U. S. EPA Region 5 that includes the information required under 40 CFR § 122.21(f) and § 122.34(d) as outlined below, and an estimate of square mileage served by your small MS4. A storm sewer map that satisfies the requirement of 40 CFR § 122.34(b)(3)(i) will also satisfy the map requirement in 40 CFR § 122.21(f)(7).

Permit applications must include the following information:

40 CFR § 122.21(f)

1. The activities conducted by the applicant which require it to obtain an NPDES permit.
2. Name, mailing address, and location of the facility for which the application is submitted.
3. Up to four SIC codes which best reflect the principal products or services provided by the facility.
4. The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.
5. Whether the facility is located on Indian lands.
6. A listing of all permits or construction approvals received or applied for under any of the following programs:
 - (i) Hazardous Waste Management program under RCRA.
 - (ii) UIC program under SDWA.
 - (iii) NPDES program under CWA.
 - (iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act.
 - (v) Nonattainment program under the Clean Air Act.
 - (vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act.
 - (vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act.
 - (viii) Dredge or fill permits under section 404 of CWA.
 - (ix) Other relevant environmental permits, including State permits.
7. A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
8. A brief description of the nature of the business.

40 CFR § 122.34(d)

- A. The best management practices (BMPs) that the operator of a small MS4 or another entity will implement for each of the storm water minimum control measures at 40 CFR § 122.34 (b)(1) through (b)(6).
1. Public education and outreach on storm water impacts
 2. Public involvement/participation
 3. Illicit discharge detection and elimination
 4. Construction site storm water runoff control
 5. Post-construction storm water management in new development and redevelopment
 6. Pollution prevention/good housekeeping for municipal operations
- B. The measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action; and
- C. The person or persons responsible for implementing or coordinating your storm water management program.

The Endangered Species Act (ESA) requires U. S. EPA to ensure, in consultation with the U. S. Fish and Wildlife Service and the National Marine Fisheries Service, that permitted storm water discharges are not likely to jeopardize the continued existence of any Federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species. The National Historic Preservation Act (NHPA) requires U. S. EPA to take into account the effects of permitted storm water discharges on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places.

In order to assist U. S. EPA in meeting these requirements, please provide information that programs and activities which the Oneida Tribe expects to implement are in compliance with the ESA and the NHPA. This information can be in the form of a letter from the Green Bay Office of the Fish and Wildlife Service indicating that discharges from your small MS4 do not impact endangered or threatened species or critical habitat. Similarly, a letter from the Oneida Tribal Historic Preservation Officer (THPO) indicating that discharges from your small MS4 do not impact historic properties will meet the requirement for NHPA. Please note that if your discharges have the potential to affect endangered species or historic properties, your permit may contain requirements to address any potential affects.

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Please submit the permit application and information within 90 days of receipt of this letter. We are prepared to work with you to assure that your storm water program reduces the discharge of pollutants from the MS4 to the maximum extent practicable. If you have any questions, please feel free to call Brian Bell at 312-886-0981.

Sincerely yours,

/s/ Original Signed by
Jodi Traub

Jo Lynn Traub
Director, Water Division

cc: James Snitgen, Oneida Tribe

bcc: Brian Bell
David Soong
Morris Beaton

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